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Attorney for Plaintiff, MONIQUE MANCHOUCK
and the Proposed Class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MONIQUE MANCHOUCK, as an
individual, and on behalf of all others
similarly situated,

Plaintiff,

vs.

MONDELEZ INTERNATIONAL, INC.,
d/b/a **NABISCO** an Illinois corporation
Defendant.

: Civil No.: 3:13-cv-02148-WHA

:

: **PLAINTIFF'S MOTION FOR LEAVE TO**

: **FILE UNTIMELY RESPONSE IN**

: **OPPOSITION TO DEFENDANT'S**

: **MOTION TO DISMISS THE FIRST**

: **AMENDED COMPLAINT**

:

: Date: September 26, 2013

: Time: 8:00 a.m.

: Courtroom: 8

: Judge: The Honorable William Alsup

Plaintiff, MONIQUE MANCHOUCK, individually, and on behalf of all others similarly
situated, by and through her undersigned counsel, hereby files this Motion for Leave to File
Untimely Response in Opposition to Defendant's Motion to Dismiss the First Amended
Complaint, by stating the following:

1. On August 2, 2013, Plaintiff filed a First Amended Complaint (Dkt. 17).
2. On August 16, 2013, Defendant filed a Motion to Dismiss the First Amended
Complaint (Dkt. 24) ("Motion to Dismiss").

1 3. On August 16, 2013, Defendant filed a Request for Judicial Notice in Support of
2 its Motion to Dismiss (Dkt. 25) (“Request for Judicial Notice”).

3 4. The Court set August 30, 2013, as Plaintiff’s deadline to respond to Defendant’s
4 Motion to Dismiss and Request for Judicial Notice.

5 5. A Hearing is set for this matter on September 26, 2013.

6 6. However, due to clerical error, Plaintiff failed to file a Response to Defendant’s
7 Motion to Dismiss.
8

9 7. In order to avoid prejudice to the Plaintiff as a result of her attorney’s clerical error,
10 Plaintiff respectfully requests leave of this Honorable Court to file a Response in Opposition to
11 Defendant’s Motion to Dismiss.
12

13 8. Plaintiff does not oppose Defendant’s Request for Judicial Notice.

14 9. On September 17, 2013, Plaintiff conferred with Defendant, and Defendant has
15 indicated that it will not file an objection or move to strike Plaintiff’s Response in Opposition to
16 Defendant’s Motion to Dismiss on timeliness grounds.
17

18 10. Therefore, in the interests of justice and fairness to the parties, including members
19 of the putative Class, Plaintiff humbly requests Leave of Court to File a Response in Opposition
20 to Defendant’s Motion to Dismiss on or before September 19, 2013.

21 **WHEREFORE**, Plaintiff respectfully requests that this Honorable Court enter an Order
22 allowing Plaintiff to file a Response in Opposition to Defendant’s Motion to Dismiss on or before
23 September 19, 2013, and for all other relief this Court deems just, appropriate, or proper.
24

25 **Respectfully Submitted,**

26 **Dated: September 17, 2013**

27 By: /s/ Benjamin M. Lopatin
28 Benjamin M. Lopatin, Esq.
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Attorneys for Plaintiff

Monique Manchouck and the Proposed Class

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of September, 2013, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record by transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Benjamin M. Lopatin

Benjamin M. Lopatin, Esq.